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UNCLAS SECTION 01 OF 03 ANKARA 002277

SIPDIS

DEPT FOR EB/TPP/MTA/IPE - SWILSON/JURBAN AND EUR/SE DEPT  
PASS USTR FOR JCHOE-GROVES  
DEPT PASS LIBRARY OF CONGRESS FOR STEPP  
DEPT PASS USPTO FOR JURBAN AND EWU  
USDOC FOR ITA/MAC/DDEFALCO AND JBOGER

SENSITIVE

E.O. 12958: N/A

TAGS: ETRD KIPR TU USTR

SUBJECT: SPECIAL 301: Update on Copyright/Trademark Protection

REF: (A) Ankara 1652

(B) Sirotic/Urban Email 4/14/05

Summary

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**¶11.** (SBU) The GOT reports a sharp rise in seizure of pirated materials in 2004, along with other measures supporting copyright protection. Our principal film industry anti-piracy contact seems relatively upbeat about IP protection, but trademark owners, publishers and the software representative with whom we spoke are much less sanguine. All are waiting to see whether the new Culture and Tourism Minister will be as interested in and supportive of intellectual property rights as his predecessor. Several industry groups expressed interest in collaborating with the USG on training programs. End Summary.

Copyright - Seizures Up Sharply in 2004

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**¶12.** (U) The Ministry of Culture and Tourism (MOCT) prepared a response (in Turkish) to the International Intellectual Property Association (IIPA) Special 301 submission, which reports serious problems with book and optical media piracy as well as with enforcement. The response describes legislation, regulatory and enforcement activity, and other efforts to improve IP protection, including:

-- Seizure of nearly 2.5 million books, CD/VCD/DVDs, and video and tape cassettes in 2004, a 79 percent increase on 2003. Over 2 million CDs and VCDs were confiscated and 3824 suspects were arrested in 2844 raids in 2004. Note: These figures are significantly higher than those reported in the recently-issued Investor Advisory Council (IAC) report (reftel). End Note.

-- "Sui generis" protection for databases;

-- New training seminars for the police and provincial MOCT directorates;

-- Salary bonuses for law enforcement officers who work overtime in the IPR inspection commissions in large cities;

-- A joint project with the EU on "Implementation and Efficient Enforcement of IPR Legislation," for which the EU has allocated EUR2.7 million.

**¶13.** (U) MOCT reports that it is developing new regulations on registration procedures and on renting/lending copyright material.

Film Industry Rep Upbeat on GOT's Anti-Piracy Efforts

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**¶14.** (U) The Director General of AMPEC, an Motion Picture Association affiliate, told us April 7 that she was pleased with recent developments in enforcement, particularly a drop in the rate of film piracy in Istanbul to about half, down from 80 percent. Although the justice system has yet to implement prison sentences (cases with a sentence of imprisonment are being appealed), the courts have handed down stiff fines on the order of 50,000 YTL (about USD 37,500). Based on her participation in a recent IP conference in Antalya, the Director General also related that prosecutors seem much more interested in copyright enforcement than they have been in the past. She added that the film and music industries have begun to work more closely together, with IFPI's Turkish affiliate Mu-YAP joining AMPEC.

15. (U) A U.K. Publishers' Association report (ref B) issued in March acknowledged that legislation passed in 2004 helps the fight against piracy, but asserted that publishers have not experienced any major diminution in piracy (estimated at 50 percent of the market) and that more enforcement is needed. Pearson Education, Oxford University Press (OUP), Macmillan, and the Copyright Holders Association of Literary and Scientific Works (EDISAM) have conducted hundreds of raids and seizures against pirates. The publishers have also launched numerous court cases against pirates, some of which have recently resulted in significant fines and, in one case, a term of imprisonment (which may be appealed). The publishers also criticized Turkey's banderole system, designed to authenticate legitimate books, noting that controls are insufficient to prevent the use of these holograms on unauthorized books.

16. (SBU) In a meeting with Econoff April 7, OUP and Edisam representatives echoed many of these points, especially poor control over banderoles. They maintained that some two million of them were "stolen" recently, and predicted that many of them would eventually be attached to unauthorized books. They also point out that revenue from the (mandatory) sale of banderoles is supposed to be dedicated to anti-piracy efforts, but that the Ministry of Culture and Tourism (MOCT) has not used these funds for this purpose.

BSA Rep on Software Piracy/Collaboration with USG

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17. (U) The Business Software Alliance's Turkey representative told us that rightholders had obtained sizable fines against a number of large Turkish corporations for unauthorized software use, and that some companies were beginning to lobby the MOCT to water down IP protection. Unlike piracy in other sectors, BSA believes software piracy seems to be on the increase based on the fact that software sales are not rising as rapidly as hardware sales. BSA told us that it is developing an anti-piracy campaign in cooperation with AMPEC and the MOCT. BSA stated that it is also very interested in working with the USG in providing training and technical assistance. In particular, the BSA representative expressed interest in interviewing a USG copyright or enforcement expert as part of a study of piracy which it intends to publish in the Turkish business press.

18. (SBU) Film, publishing and software representatives all expressed some doubts as to whether the new Culture/Tourism Minister, and his new team, will be as supportive of anti-piracy efforts as was his predecessor. BSA was particularly concerned that business complaints about fines for unauthorized software use might get a sympathetic hearing in the MOCT.

Trademark Owners: Cooperation With GOT Improving

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19. (SBU) The Trademark Association (TMD) President told Econoff April 7 that his organization has actively pursued raids and lawsuits against counterfeiters, especially in the clothing/footwear sectors, on behalf of members, including U.S. companies. However, he lamented the fact that counterfeiters seem often to have been tipped off in advance of raids organized by TMD. Although the Turkish Patent Institute (TPE) has not worked efficiently and has even approved false trademark applications filed by rivals of the mark owner, he said that TPE had dramatically improved operations under its current president. He characterized cooperation with the Justice Ministry's European Integration Department as very good. TMD complained that current law did not give law enforcement authorities ex officio powers to seize counterfeit goods, but suggested this would be corrected in a forthcoming draft law. TMD expressed interest in working with the USG on training law enforcement personnel, especially customs officers.

TPE's Special 301 Submission

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10. (U) In a written comment on the PhRMA Special 301 submission, the Turkish Patent Institute provided a historical overview of patent legislation and statistics on filing and approval. TPE claims that Turkey's legal regime for patents exceeds TRIPS standards and is close to full harmonization with EU legislation. Embassy faxed a copy of the response to EB/TPP/MTA/IPE. Edelman